

FILED

JUL 13 2004

UNITED STATES DISTRICT COURT

LARRY W. PROPPS, CLERK
CHARLESTON, SC

DISTRICT OF SOUTH CAROLINA

CHARLESTON DIVISION

JOSE PADILLA,)	C. A. No. 2:04-2221-26AJ
)	
Petitioner,)	
)	
-versus-)	<u>O R D E R</u>
)	
COMMANDER C.T. HANFT, USN)	
Commander, Consolidated)	
Naval Brig,)	
)	
Respondent.)	

This matter is before the court on the motion for the appointment of counsel pursuant to the Criminal Justice Act, 18 U.S.C. §3006A by the petitioner, Jose Padilla, a U.S. citizen designated by the President of the United States as an enemy combatant and confined in the Consolidated Naval Brig, Hanahan, South Carolina. Specifically Padilla requests the appointment of Donnna R. Newman and Andrew G. Patel who represented him in a now dismissed petition filed in a district without jurisdiction over his custodian. See Rumsfeld v. Padilla, 2004 U.S. LEXIS® 4759, 72 U.S.L.W. 4584, 2004 WESTLAW® 1432135 (U.S., June 28, 2004).

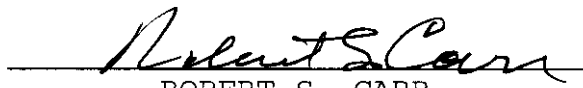
The appointment of counsel is not recognized as a right at any stage of a habeas proceeding short of an evidentiary hearing. See Kramer v. Jenkins, 108 F.R.D. 429, 430-433, 1985 U.S. Dist. LEXIS® 12533 (N.D.Ill. 1985) (district court may use Section 2254 Rules in setting a time for a response in Section 2241 cases); and Rule 8c, Rules Governing Section 2254 Cases. However, the

court may appoint counsel under 18 U.S.C. § 3006A at any stage of a habeas proceeding if the interest of justice so requires, and the circumstances and nature of the petitioner's claims here warrant the appointment of counsel.

The petitioner has had limited contact with attorneys Newman and Patel, and the request for their appointment in this case stems largely from the fact that they were appointed to represent him in the previous case in New York. However, they are not licensed to practice law in this court, or this state, and thus they do not qualify for appointment by this court.

Nevertheless, in as much as the ends of justice require the appointment of counsel, pursuant to the Criminal Justice Act, 18 U.S.C. § 3006A, and the Plan of this District approved thereunder on April 21, 1971, by the Judicial Council of the Fourth Circuit,

IT IS ORDERED that the Federal Public Defender is appointed to represent the above named petitioner.¹


ROBERT S. CARR
UNITED STATES MAGISTRATE JUDGE

Charleston, South Carolina

July 13, 2004

¹ Should the Public Defender determine it appropriate, he may take such actions as he deems proper to obtain the assistance of Donna R. Newman and Andrew G. Patel.